

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

MALIBU BOATS, LLC,  
Plaintiff/Counterclaim Defendant,

v.

SKIER'S CHOICE, INC.,  
Defendant/Counterclaim Plaintiff.

Case No. 3:18-CV-15-JPM-HBG  
[consolidated with Case No. 3:19-CV-  
225]

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**VERDICT FORM**

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In answering the following questions and filling out this Verdict Form, you are to follow all of the instructions I have given you in the Court's charge. Your answer to each question must be unanimous.

As used herein, "Malibu" means Plaintiff Malibu Boats, LLC. As used herein, "Skier's Choice" means Defendant Skier's Choice, Inc.

As used herein, "Patents-in-Suit" means U.S. Patent No. 9,260,161 (also known as the '161 Patent) and U.S. Patent No. 10,322,777 (also known as the '777 Patent).

**\*\* NOTE: YOU MUST ANSWER QUESTION 1 \*\***

**QUESTION 1: Infringement**

Did Malibu prove by a preponderance of the evidence that Skier's Choice infringed the following claims of the Patents-in-Suit?

Check "Yes" or "No" for each listed claim in the space provided.

("Yes" is a finding for Plaintiff Malibu; "No" is a finding for Defendant Skier's Choice).

**'161 Patent**

Claim 1:      Yes \_\_\_\_\_      No ✓

Claim 34:      Yes \_\_\_\_\_      No ✓

**'777 Patent**

Claim 1:      Yes \_\_\_\_\_      No ✓

Claim 14:      Yes X\*      No \_\_\_\_\_

\*See Section III.G (Additional Instruction on Claim 14 of '777 Patent on Page 31)

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**\*\* ANSWER THIS NEXT QUESTION ONLY AS TO THOSE CLAIMS YOU  
ANSWERED “YES” TO IN QUESTION 1 ABOVE — OTHERWISE  
DO NOT ANSWER THIS QUESTION. \*\***

**QUESTION 2: Willful Infringement**

If you found that Skier’s Choice infringed any of the claims of the Patents-in-Suit in response to Question 1, did Malibu prove that it is more likely than not that such infringement was willful?

Check “Yes” or “No” in the space provided.

(“Yes” is a finding for Plaintiff Malibu; “No” is a finding for Defendant Skier’s Choice).

Yes \_\_\_\_\_ No ☒ \_\_\_\_\_

**\*\* NOTE: YOU MUST ANSWER QUESTION 3A AND 3B \*\***

**QUESTION 3: Invalidity**

3A. Did Skier's Choice prove by clear and convincing evidence that any of the following claims of the Patents-in-Suit are invalid as anticipated or obvious in view of the prior art?

Check "Yes" or "No" for each listed claim in the space provided.

("Yes" is a finding for Defendant Skier's Choice; "No" is a finding for Plaintiff Malibu).

'161 Patent

Claim 1: Yes ✓ No       

Claim 34: Yes ✓ No       

'777 Patent

Claim 1: Yes ✓ No       

Claim 14: Yes ✓ No

3B. Did Skier's Choice prove by clear and convincing evidence that any of the following claims of the Patents-in-Suit are invalid for lacking adequate written description or for lack of enablement?

Check "Yes" or "No" for each listed claim in the space provided.

("Yes" is a finding for Defendant Skier's Choice; "No" is a finding for Plaintiff Malibu).

'161 Patent

Claim 1: Yes ☒ No ☐

Claim 34: Yes ☒ No ☐

'777 Patent

Claim 1: Yes ☒ No ☐

Claim 14: Yes ☒ No ☐

**\*\* NOTE: ANSWER QUESTION 4 ONLY IF YOU HAVE FOUND AT LEAST ONE CLAIM LISTED IN QUESTION 1 INFRINGED AND FOUND THAT SUCH CLAIM IS NOT INVALID IN QUESTION 3. OTHERWISE, DO NOT ANSWER THIS NEXT QUESTION. \*\***

**QUESTION 4: Damages**

4A. Has Malibu proven by a preponderance of evidence that it is entitled to damages in the form of lost profits?

Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "Yes" to Question 4A, then proceed to Question 4B.

If you answered "No" to Question 4A, then proceed to Question 4C.

4B. What is the amount of the lost profit damages that Malibu has proven by a preponderance of the evidence that it would have made but for the infringement?

\$ \_\_\_\_\_

4C. What amount of reasonable royalty damages do you find by a preponderance of the evidence that Malibu has proven it is owed due to Skier's Choice's infringement? If you awarded lost profits in Question 4B, you must exclude the sales of infringing products from that lost profits amount from the royalty base (number of infringing products) of the reasonable royalty calculation below.

$$\begin{array}{ccccc} \text{_____} & & \times & & \text{_____} & & = & & \text{_____} \\ \text{Royalty Base} & & & & \text{Royalty Rate} & & & & \text{Total Royalty} \\ \text{(Number of Infringing Products)} & \times & \text{(Amount per Infringing Product)} & = & \text{(Total)} & & & & \end{array}$$

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. The jury foreperson should then sign and date the verdict form in the space below and return it to the Court.

Signed this 21<sup>st</sup> day of May, 2021.

**SIGNATURE REDACTED**